

# FEDERAL REGISTER



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*Washington, Tuesday, January 17, 1939*

## *The President*

### EXECUTIVE ORDER

#### ESTABLISHING THE FEDERAL REAL ESTATE BOARD

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

1. There is hereby established the Federal Real Estate Board to be composed of representatives designated by the heads of the following-named Executive departments and agencies, each department and agency to have one representative: Treasury Department (Procurement Division), Department of Agriculture, Department of Commerce, Department of the Interior, Department of Justice, Navy Department, War Department, Tennessee Valley Authority, and Bureau of the Budget. The Board may authorize representation thereon of any other Executive department or agency, such representatives to be designated as stated above. Pending selection of a permanent chairman by the Board the representative of the Treasury Department shall serve as temporary chairman. The members of the Board shall be officers or employees of the department or agency which they represent, and shall serve without additional compensation and without entailing additional expense to the Government.

2. The Secretary of the Treasury is requested to cause to be maintained by the Procurement Division of the Treasury Department a permanent current record of all Federal real estate, and the several Executive departments and agencies are requested to furnish, upon request of the Director of the Procurement Division, such information as may be required to maintain such record.

3. The heads of the several Executive departments and agencies are requested to supply to the Procurement Division, for use of the Federal Real Estate Board, a current record of all real property under their respective jurisdictions which is not being utilized, in whole or in part, for the purposes of their own department

or agency. The Board shall consult with, and make recommendations to, the Procurement Division and to the Executive departments and agencies concerned, with respect to such disposition of surplus real property as will best serve the interests of the Government.

4. Executive departments and agencies contemplating the acquisition of additional real property are requested, before acquiring such property, to ascertain from the Procurement Division whether there is any real property in Federal ownership that may be made available for the purpose contemplated, and, in all cases in which such action may appear desirable, to consult with the Federal Real Estate Board regarding the acquisition of such Federal property for the use of their own department or agency.

5. The Federal Real Estate Board shall study, and make appropriate recommendations regarding, the situation in different communities adversely affected by the loss of tax revenue on land purchased or acquired by the Federal Government.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
January 14, 1939.

[No. 8034]

[F. R. Doc. 39-189; Filed, January 14, 1939;  
11:09 a. m.]

### *Rules, Regulations, Orders*

#### TITLE 7—AGRICULTURE AGRICULTURAL ADJUSTMENT ADMINISTRATION

[O-4—Amendment No. 2]

#### CHAPTER IX—MARKETING ORDERS

##### PART 904—AMENDMENT TO ORDER REGULATING THE HANDLING OF MILK IN THE GREATER BOSTON, MASSACHUSETTS, MARKETING AREA

A. Add the following findings [to Sec. 904.11.

Whereas, pursuant to Public, No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricul-

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tural Marketing Agreement Act of 1937, the Secretary of Agriculture, hereinafter called the Secretary, on January 18, 1936, tentatively approved a marketing agreement regulating the handling of milk in the Greater Boston, Massachusetts, marketing area; and

Whereas, on February 7, 1936, the Secretary issued Order No. 4 regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, said order being effective 12:01 a. m. eastern standard time, February 9, 1936; and

Whereas, on July 28, 1937, the Secretary issued an amendment<sup>1</sup> to the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, said amendment being effective 12:01 a. m. eastern standard time, August 1, 1937; and

Whereas, the Secretary, having reason to believe that said tentatively approved marketing agreement and said order should be further amended, gave, on the 28th day of November 1938, notice of a hearing to be held on the 3rd day of December 1938 at St. Johnsbury, Vermont; on the 5th day of December 1938 at Augusta, Maine; and on the 6th day of December 1938 at Boston, Massachusetts, on a proposed amendment to said tentatively approved marketing agreement as amended and said order as amended, and at said times and places conducted a public hearing at which all interested parties were afforded an opportunity to be heard on the proposed amendment to said tentatively approved marketing agreement as amended and to said order as amended; and

Whereas, after such hearing and after the tentative approval by the Secretary of the amendment to the tentatively

approved marketing agreement, in accordance with the powers and functions vested in him by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereinafter referred to as the act, on the 30th day of December 1938, handlers of more than 50 percent of the volume of milk covered in such order as amended which is marketed within the Greater Boston, Massachusetts, marketing area have signed such tentatively approved marketing agreement as amended; and

Whereas, the issuance of this amendment to said order as amended is approved or favored by over two-thirds of the producers who during the month of May 1938, said month being determined by the Secretary to be a representative period, were engaged in the production of milk for sale in the Greater Boston, Massachusetts, marketing area and who voted in a referendum conducted by the Secretary on January 6, 1939; and

Whereas, the Secretary finds upon the evidence introduced at the hearing upon such proposed amendment, said findings being in addition to the findings made upon the evidence introduced at the hearing on said order, and said order as amended, and such findings being herewith ratified and affirmed by the Secretary save only as such findings are in conflict with the findings hereinafter set forth:

1. That the redefinition of a delivery period will result in fewer reports, less work, and substantial savings for both handlers and the market administrator;

2. That the provision for classification of milk will result in clarifying the provisions of said order;

3. That the prices calculated to give milk in said marketing area a purchasing power equivalent to the purchasing power of such milk, as determined pursuant to section 2 and section 8e of said act, are not reasonable in view of the price of feeds, the available supplies of feed, and other economic conditions which effect the supply and demand for such milk, and that the minimum prices set forth in this order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which were declared in the act to be the policy of Congress to establish; that the method provided for fixing the price of Class II milk that is made into butter in country plants more than 40 miles from the State House in Boston, Massachusetts, during the months of May, June, and September is a method which bears a direct and reasonable relationship to the average prices reported daily by the United States Department of Agriculture for 92-score butter at wholesale in the New York market;

4. That the method for computing prices of milk sold in the designated

areas outside the marketing area is justified and necessary for the effective regulation of the milk sold within the said marketing area;

5. That the change in the formula for figuring the butterfat differential is merely to bring the same in line with the actual value of such butterfat as shown by the facts adduced at said hearings;

6. That conditions in Barnstable and Plymouth Counties, Massachusetts, are similar to those within 40 miles of the State House in Boston, and that milk producers in said counties are therefore entitled to the same differentials;

7. That all the remaining provisions of this amendment are necessary to effectuate the provisions of the order as amended;

8. That the order as amended regulates the handling of milk in the same manner as the tentatively approved marketing agreement as amended; and

9. That the issuance of the amendment to the order and all of the terms and conditions of the order as amended will tend to effectuate the declared policy of the act.

Now, therefore, the Secretary of Agriculture, pursuant to the authority vested in him by Public Act No. 10, 73d Congress, as amended, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby orders that the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area, [Part 904] issued by the Secretary on February 7, 1936, amended July 28, 1937, be and it is hereby further amended as follows:

B. Delete paragraph 8 of section 1 of Article I [Sec. 904.2] and in lieu thereof insert the following:

8. *Delivery period.*—The term "delivery period" means prior to February 1, 1939, the current marketing period from the first to and including the 15th day of each month, and from the 16th to and including the last day of each month. Subsequent to January 31, 1939, "delivery period" means the current marketing period from the first to and including the last day of each month.

C. Delete sections 1 and 2 of article III [Sec. 904.4 (a) and (b)] and in lieu thereof insert the following:

SECTION 1. [a] *Basis of classification.*—All milk received from producers by a handler shall be classified in the classes set forth in section 2 of this article [paragraph (b) of this section] in accordance with its utilization by the handler who received it from producers: Provided, That if milk, including skim milk, is moved to the plant of another person who distributes milk or manufactured milk products, classification of such milk may be in accordance with its utilization by such second person. Any utilization of milk claimed by a handler shall be subject to verification by the market administrator.

<sup>1</sup> 2 F. R. 1331 (1588 DI).

SEC. 2. [b] *Classes of utilization.*—The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk sold or distributed as or in milk, chocolate milk, or flavored milk, and all milk the utilization of which is not established as Class II milk;

(2) Class II milk shall be all milk the utilization of which is established as being sold, distributed, or disposed of other than as or in milk, chocolate milk, flavored milk, and as actual plant shrinkage, within reasonable limits, on milk received from producers: Provided, That if milk is received both from producers and other handlers, such actual plant shrinkage, within reasonable limits, shall be prorated between the milk from producers and the milk from other handlers in proportion to the volume of milk received from each.

D. Delete sections 1 and 2 of article IV [Sec. 904.5 (a) and (b)] and in lieu thereof insert the following:

SECTION 1. [a] *Class I prices to associations of producers.*—Each handler shall pay any association of producers for Class I milk containing 3.7 percent butterfat content not less than the following prices:

(1) For such milk delivered from a plant of such association to such handler's plant located not more than 40 miles from the State House in Boston, the applicable price pursuant to paragraph 1 of section 2 of this article [subparagraph (1) of paragraph (b) of this section] plus 12 cents;

(2) For such milk delivered from a plant of such association to such handler at a railroad delivery point not more than 40 miles from the State House in Boston, the applicable price pursuant to paragraph 1 of section 2 of this article [subparagraph (1) of paragraph (b) of this section] plus 7 cents;

(3) For such milk delivered to such handler f. o. b. railroad cars or trucks at a plant of such association where received from producers and which is more than 40 miles from the State House in Boston, the applicable price pursuant to paragraph 2 of section 2 of this article [subparagraph (2) of paragraph (b) of this section] plus 25 cents: Provided, That if such handler furnishes containers for the transportation of such milk the price shall be the applicable price pursuant to paragraph 2 of section 2 of this article [subparagraph (2) of paragraph (b) of this section] plus 22 cents;

(4) If such milk is delivered containing butterfat more or less than 3.7 percent, such handler shall add or subtract, as the case may be, a differential for each one-tenth of one percent above or below 3.7 percent which differential is the result of dividing by 330 the cream price used in paragraph 1 of section 3 of this article [subparagraph (1) of paragraph (c) of this section].

SEC. 2 [b] *Class I prices to producers.*—Each handler shall pay producers, in the manner set forth in article VIII [Sec. 904.9] for Class I milk delivered by them, not less than the following prices:

(1) \$3.46 per hundredweight during delivery periods prior to May 1, 1939, and thereafter \$3.06 per hundredweight for such milk delivered from producers' farms to such handler's plant located not more than 40 miles from the State House in Boston: Provided, That for such milk sold to the Federal Surplus Commodities Corporation the price shall be \$3.19 per hundredweight during delivery periods prior to May 1, 1939, and thereafter \$3.06 per hundredweight;

(2) \$3.28 per hundredweight during delivery periods prior to May 1, 1939, and thereafter \$2.88 per hundredweight for such milk delivered from producers' farms to such handler's plant located more than 40 miles from the State House in Boston, less an amount per hundredweight equal to the freight from the railroad shipping point for such handler's plant to such handler's railroad delivery point in the marketing area: Provided, That for such milk sold to the Federal Surplus Commodities Corporation the price shall be \$3.01 per hundredweight for delivery periods prior to May 1, 1939, and thereafter \$2.88 per hundredweight for such milk delivered from producers' farms to such handler's plant located more than 40 miles from the State House in Boston, less an amount per hundredweight equal to the freight from the railroad shipping point for such handler's plant to such handler's railroad delivery point in the marketing area. Such freight, in both the above instances, shall be calculated according to applicable rail tariffs for the transportation in carload lots of milk in 40-quart cans and each such can shall be considered to contain 85 pounds of milk;

(3) For the purpose of this section [paragraph], the milk which was sold or distributed during each delivery period by each handler as Class I milk in the marketing area shall be presumed to have been that milk which was (a) received from producers' farms at such handler's plant located not more than 40 miles from the State House in Boston and (b) shipped from the nearest plant located more than 40 miles from the State House in Boston.

E. Delete paragraph 1 of section 3 of article IV [Sec. 904.5 (c) (1)] and in lieu thereof insert the following:

(1) Except as provided in paragraph 3 of this section [subparagraph (3) of this paragraph], in the case of such milk delivered to a handler's plant located not more than 40 miles from the State House in Boston, a price which the market administrator shall calculate as follows: divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported

by the United States Department of Agriculture for the delivery period during which such milk is delivered, or the last such price reported for a delivery period if no such price is reported for the delivery period during which such milk is delivered, multiply the result by 3.7 and subtract 28 cents: Provided, That any plus amount resulting from the following computation shall be added to the above amount: take the average of all quotations published during the delivery period in the Oil, Paint, and Drug Reporter for domestic 20-30 mesh casein in bags in carlots at New York, subtract 6.6 cents and multiply by 2.125.

F. Add the following as paragraph 3 of section 3 of article IV [Sec. 904.5 (c) (3)]:

(3) During the May, June and September delivery periods, in the case of such milk made into butter at a plant more than 40 miles from the State House in Boston, the minimum price shall be computed by the market administrator, instead of the price otherwise applicable pursuant to this section [paragraph], as follows: from the average of the prices reported daily during such delivery period by the United States Department of Agriculture for 92-score butter at wholesale in the New York market, deduct 5 cents, add 16½ per cent, and multiply by 3.7.

G. Delete section 4 of article IV [Sec. 904.5 (d)] and in lieu thereof insert the following:

Sec. 4. [d] *Sales outside the marketing area.*—The price to be paid to associations of producers, or to producers in the manner set forth in article VIII [Sec. 904.9], by each handler for milk utilized as Class I milk outside the marketing area shall be:

(1) Except as provided in paragraph 2 of this section [subparagraph (2) of this paragraph], the applicable price pursuant to sections 1 and 2 of this article [paragraphs (a) and (b) of this section], adjusted by (a) the difference between such applicable price and the price ascertained by the market administrator as the prevailing price paid by processors for milk of equivalent use in the market where such Class I milk is utilized and (b) the difference between the freight allowance, if any, set forth in paragraph 2 of section 2 of this article [subparagraph (2) of paragraph (b) of this section] and an amount equal to the carload freight rate approved by the Interstate Commerce Commission for movement of milk in 40-quart cans from the shipping point for the plant where such Class I milk is received from producers to the railroad delivery point serving the market where such Class I milk is utilized: Provided, That (1) if the market where such Class I milk is utilized is less than 10 miles from the plant where such Class I milk is received from producers, the railroad shipping point for such

plant shall be presumed to be the railroad delivery point serving such market, and (2) if the market where such Class I milk is utilized is located in Barnstable, Plymouth, Norfolk, Dukes, or Nantucket Counties, Massachusetts, such handler's railroad delivery point in the marketing area shall be considered to be the railroad delivery point serving such market.

(2) For Class I milk sold or distributed in milk marketing areas numbers 10A, 10D, 13A, 14A, 15A, and 17, as defined by official orders of the Milk Control Board of the Commonwealth of Massachusetts, in effect on December 1, 1938, the prices applicable pursuant to sections 1 and 2 of this article [paragraphs (a) and (b) of this section].

H. Delete sections 2 and 3 of article V [Sec. 904.6 (a) and (b)] and in lieu thereof insert the following:

Sec. 2. [b] *Reports as to producers.*—Each handler shall report to the market administrator:

(1) Within 10 days after the market administrator's request with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator: (a) the name, post office address, and farm location, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which the deliveries were made;

(2) Within 10 days after any producer begins or resumes milk deliveries: (a) the name, post office address, and farm location of such producer, (b) the date upon which such producer began or resumed milk deliveries, (c) the plant at which such producer delivered milk, and (d) the plant, if known, at which such producer delivered milk immediately prior to the beginning of delivery to such handler;

(3) Within 5 days after any producer has failed to make deliveries for 5 consecutive days: (a) the name, post office address, and farm location for such producer, (b) the date upon which milk was last received, (c) the plant at which such producer delivered milk, and (d) the reason, if known, for such failure to deliver; and

(4) Within 10 days after any producer moves from one farm to another: (a) the name, post office address, and location of the respective farms operated by such producer and (b) the date upon which milk was first received from the new location.

Sec. 3. [c] *Reports of payments to producers.*—Each handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the delivery period, his producer pay roll for such delivery period, which shall show for each producer: (a) the daily and total pounds of milk delivered with the average butterfat test thereof and (b)

the net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

I. Delete sections 1 and 2 of article VI [Sec. 904.7 (a) and (b)] and in lieu thereof insert the following:

SECTION 1. [a.] *Application of provisions.*—No provision hereof shall apply to a handler whose sole source of milk supply consists of receipts from his own production and/or receipts from other handlers, except that such handler shall make reports to the market administrator at such time and in such manner as the market administrator may require.

Sec. 2. [b] *Milk received from producers by handlers who are also producers.*—In the case of a handler who is also a producer and who received milk from producers, the market administrator shall, before making the computations set forth in article VIII [Sec. 904.9], (a) exclude from such handler's Class I milk up to but not exceeding 90 percent of the quantity of milk received from his own farm production, (b) exclude the milk received by him in each class from other handlers, and (c) exclude from his remaining Class II milk the balance of the milk received from his own farm production: Provided, That in computing the value of milk for such handler pursuant to article VIII [Sec. 904.9], the market administrator shall not use a quantity of Class I milk in excess of the total quantity of milk received by such handler from other producers.

J. Delete sections 2 and 3 of article VII [Sec. 904.8 (b) and (c)] and in lieu thereof insert the following:

Sec. 2. [b] *Computation and announcement of uniform prices.*—The market administrator shall compute and announce the uniform prices per hundredweight of milk delivered during each delivery period in the following manner:

(1) Combine into one total the respective values of milk, computed pursuant to section 1 of this article [paragraph (a) of this section], for each handler from whom the market administrator has received at his office a report for such delivery period prior to the 12th day after the end of such delivery period, and who has made the payments, required by paragraph 3 of section 2 of article VIII [Sec. 904.9 (b) (3)], for milk received during each delivery period since the effective date of the most recent amendment to this order [part];

(2) Add the total net amount of the differentials applicable pursuant to section 5 of article VIII [Sec. 904.9 (e)];

(3) Subtract the total amount to be paid to producers pursuant to paragraph 2 of section 2 of article VIII [Sec. 904.9 (b) (2)];

(4) Divide by the total quantity of milk which is included in these computations except that milk required to be paid for pursuant to paragraph 2 of section 2 of article VIII [Sec. 904.9 (b) (2)];

(5) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in paragraph 3 of section 2 of article VIII [Sec. 904.9 (b) (3)];

(6) Add an amount which will prorate, pursuant to section 3 of this article [paragraph (c) of this section], any cash balance available; and

(7) On or before the 12th day after the end of each delivery period, mail to all handlers and publicly announce (a) such of these computations as do not disclose information confidential pursuant to the act, (b) the blended price per hundredweight which is the result of these computations, and (c) the Class II price.

Sec. 3. [c] *Proration of cash balance.*—For each delivery period the market administrator shall prorate, by an appropriate addition pursuant to section 2 of this article [paragraph (b) of this section], the cash balance, if any, in his hands from payments made by handlers for milk received during any delivery period to meet obligations arising out of paragraph 3 of section 2 of article VIII [Sec. 904.9 (b) (3)]: *Provided*, That for the period January 16–31, 1939, the cash balance thus prorated shall be that in the hands of the market administrator from such payments made by handlers for milk received prior to January 1, 1939: *Provided further*, That if any such proration would result in an increase in the blended price in excess of 20 cents per hundredweight, then the proration shall be made on the basis of a recomputation of the blended price for each delivery period for which such payment was due, following the same method of computation and using the same class prices that were used in making the original computation for such delivery periods. The market administrator shall credit each handler's account for each such delivery period with the difference between the blended price as originally computed plus any applicable differentials pursuant to section 5 of article VIII [Sec. 904.9 (e)] for such period and the blended price as recomputed, plus any applicable differentials pursuant to section 5 of article VIII [Sec. 904.9 (e)], for such period times the quantity of milk received by the handler in such period from producers not required to be paid for such period pursuant to paragraph 2 of section 2 of article VIII [Sec. 904.9 (b) (2)]. Handlers shall thereupon, in such manner as is determined by the market administrator to be necessary in order to insure such payments being received by such producers, make such payments to producers which will, when added to the sums such producers have previously received for milk delivered in each such period, result in the payment to each such producer of an amount not less than that required on the basis of the recomputed blended price for each such period.

K. Delete sections 1, 2, 3, 4 and 5 of article VIII [Sec. 904.9] and insert the following:

[Sec. 904.9 *Payments for milk.*]

SECTION 1. [a] *Advance payments.*—On or before the 10th day after the end of each delivery period subsequent to January 31, 1939, each handler shall make payment to producers for the approximate value of milk received during the first 15 days of such delivery period. In no event shall such advance payment be at a rate less than the Class II price for such delivery period.

Sec. 2. [b] *Final payment.*—On or before the 25th day after the end of each delivery period, each handler shall make payment, subject to the butterfat differential set forth in section 4 of this article [paragraph (d) of this section], for the total value of milk received during such delivery period as required to be computed pursuant to section 1 of article VII [Sec. 904.8 (a)] as follows:

(1) To each producer, except as set forth in paragraph 2 of this section [subparagraph (2) of this paragraph], at not less than the blended price per hundredweight computed pursuant to section 2 of article VII [Sec. 904.8 (b)], subject to the differentials set forth in section 5 of this article [paragraph (e) of this section], for the quantity of milk delivered by such producer;

(2) To any producer, who did not regularly sell milk for a period of 30 days prior to February 9, 1936, to a handler or to persons within the marketing area, at not less than the Class II price in effect for the plant at which such producer delivered milk, except that during the May, June, and September delivery periods the price pursuant to paragraph 3 of section 3 of article IV [Sec. 904.5 (c) (3)] shall apply, for all the milk delivered by such producer during the period beginning with the first regular delivery of such producer and continuing until the end of two full calendar months following the first day of the next succeeding calendar month; and

(3) To producers, through the market administrator, by paying to or receiving from the market administrator, as the case may be, the amount by which the payments required to be made pursuant to paragraphs 1 and 2 of this section [subparagraphs (1) and (2) of this paragraph] are less than or exceed the value of milk as required to be computed for such handler pursuant to section 1 of article VII [Sec. 904.8 (a)], as shown in a statement rendered by the market administrator on or before the 20th day after the end of such delivery period.

Sec. 3. [c] *Adjustments of errors in payments.*—Whenever verification by the market administrator of reports of payments of any handler discloses errors made in payments pursuant to paragraph 3 of section 2 of this article

[subparagraph (3) of paragraph (b) of this section], the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make such payment to such handler. Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of a less amount than is required by this article [section], the handler shall make up such payment to the producer not later than the time of making final payment for the period in which such error is disclosed.

Sec. 4. [d] *Butterfat differential.*—If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 3.7 percent, such handler shall, in making the payments to such producer prescribed by paragraphs 1 and 2 of section 2 of this article [subparagraphs (1) and (2) of paragraph (b) of this section], add for each one-tenth of 1 percent of average butterfat content above 3.7 percent or deduct for each one-tenth of one percent of average butterfat content below 3.7 percent an amount per hundredweight which shall be calculated by the market administrator as follows: divide by 33 the weighted average price per 40-quart can of bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, or the last such price reported for a delivery period if no such price is reported for the delivery period during which such milk is delivered, subtract 2 cents and divide the result by 10.

Sec. 5. [e] *Location differentials.*—The payments to be made to producers by handlers pursuant to paragraph 1 of section 2 of this article [subparagraph (1) of paragraph (b) of this section] shall be subjected to differentials as follows:

(1) With respect to milk delivered by a producer to a handler's plant located more than 40 miles from the State House in Boston, there shall be deducted an amount per hundredweight equal to the freight (considering 85 pounds of milk per can), according to the tariff currently approved by the Interstate Commerce Commission for the transportation in carload lots of milk in 40-quart cans, to Boston from the zone of location of the handler's plant.

(2) With respect to milk delivered by a producer to a handler's plant located not more than 40 miles from the State House in Boston, there shall be added 18 cents per hundredweight,

(3) With respect to milk delivered by a producer, whose farm is located more

than 40 miles but not more than 80 miles from the State House in Boston, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the price pursuant to paragraph 1 of section 2 of article IV [Sec. 904.5 (b) (1)], for milk sold to other than the Federal Surplus Commodities Corporation, in which event there shall be added an amount which will give as a result such price.

(4) With respect to milk delivered by a producer, whose farm is located not more than 40 miles from the State House in Boston or whose farm is located in Barnstable or Plymouth Counties, Massachusetts, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the prices pursuant to paragraph 1 of section 2 of article IV [Sec. 904.5 (b) (1)], for milk sold to other than the Federal Surplus Commodities Corporation, in which event there shall be added an amount which will give as a result such price.

Sec. 6. [f] *Other differentials.*—In making the payments to producers set forth in paragraphs 1 and 2 of section 2 of this article [subparagraphs (1) and (2) of paragraph (b) of this section] handlers may make deductions as follows:

(1) With respect to all milk delivered by producers to the plant of a handler which is located more than 40 miles from the State House in Boston and which is located more than 2 miles from a railroad shipping point, an amount not greater than 10 cents per hundredweight: Provided, That such deduction has been approved and made public by the market administrator prior to the time of payment;

(2) With respect to milk delivered by producers to a handler's plant which is located more than 14 miles, but not more than 40 miles from the State House in Boston, an amount equal to 10 cents per hundredweight of Class I milk actually sold or distributed in the marketing area from such plant, such total amount to be deducted pro rata on all milk delivered by such producers; and

(3) With respect to milk delivered by producers to any handler's plant from which the average daily shipment of Class I milk during any delivery period is less than 21,500 pounds, an aggregate amount, prorated among producers delivering milk to such plant, equal to the difference between the freight to the marketing area at the carload rate and at the less than carload rate for the Class I milk shipped during such delivery period.

Now, therefore, H. A. Wallace, Secretary of Agriculture, acting under the provisions of Public No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein con-

tained, and not otherwise, does hereby execute and issue in duplicate these amendments to Order No. 4, as amended, this 13th day of January, 1939.

[SEAL] H. A. WALLACE,  
Secretary of Agriculture.

[F. R. Doc. 39-187; Filed, January 13, 1939; 5:40 p.m.]

[P-1]

PART 741—REGULATIONS PERTAINING TO THE 1939 PRICE ADJUSTMENT PAYMENT PROGRAM FOR PRODUCERS OF WHEAT, COTTON, CORN (IN THE COMMERCIAL CORN-PRODUCING AREA), RICE, AND TOBACCO\*

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By virtue of the authority vested in the Secretary of Agriculture by the Price Adjustment Act of 1938, approved June 21, 1938 (Title V of Public Res. No. 122, 75th Congress; 52 Stat. 819), and pursuant to the provisions of Section 303 of the Agricultural Adjustment Act of 1938, approved February 16, 1938 (Public Law No. 430, 75th Congress, 3d session; 52 Stat. 45), and the second paragraph of Section 15 of the Soil Conservation and Domestic Allotment Act, as amended by Section 104 of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, 3d Session; 52 Stat. 35), I, H. A. Wallace, Secretary of Agriculture do make, prescribe, publish, and give public notice of the following regulations governing price adjustment payments which will be made to 1939 wheat, cotton, corn (in the commercial corn-producing area), rice, and tobacco producers, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture under said provisions of law.

Done at Washington, D. C., this 13th day of January, 1939. Witness my hand

\* Sections 741.1 to 741.13 are issued under the authority contained in Sections 501, 303, 104, 52 Stat. 819, 45, 35.

and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,  
Secretary of Agriculture.

Sec. 741.1. *Definitions.* As used herein and in all forms and documents relating to the 1939 Price Adjustment Payment Program for producers of wheat, cotton, corn (in the commercial corn-producing area), rice, and tobacco, (hereinafter referred to as the 1939 Price Adjustment Program), unless the context or subject-matter otherwise requires, the terms:

(a) *Secretary, Administrator, Regional Director, State Committee, County Committee, Person, Landlord, Tenant, Sharecropper, Commercial Corn-Producing Area, Acreage Planted to Wheat, Acreage Planted to Cotton, and Acreage Planted to Corn* shall have the same meanings assigned to them in Part 701 (the 1939 Agricultural Conservation Program Bulletin (ACP-1939) and supplements thereto).

(b) *Farm* means the area of land considered as a farm for the purposes of the 1939 Agricultural Conservation Program.

(c) *Parity and Marketing Year* shall have the same meanings assigned to them in the Agricultural Adjustment Act of 1938.\*

Sec. 741.2 *Eligibility for payment.* In order to be eligible for a price adjustment payment with respect to a commodity, a person must have an interest as a landlord, tenant, or sharecropper in a farm (1) for which an acreage allotment has been established for the commodity under the 1939 Agricultural Conservation Program; (2) on which the acreage planted to such commodity for harvest in 1939 is not in excess of such acreage allotment; and (3) on which such commodity was planted for harvest in 1938 or 1939, or the county committee determines that the failure to plant such commodity for harvest in at least one of such years was due to flood or drought.\*

Sec. 741.3 *Measure of Payment.* The payment for a farm with respect to any commodity shall be measured by the product of the normal yield per acre and of the acreage allotment established for that commodity for such farm under the 1939 Agricultural Conservation Program.\*

Sec. 741.4 *Rate of Payment.* The rate of payment with respect to any commodity shall be determined, within the limits of available funds, in accordance with the provisions of the Price Adjustment Act of 1938 as soon as practicable after January 31, 1939. The rate of payment with respect to a commodity shall not exceed the amount by which the average farm price of such commodity during the period from the beginning of the 1938-39 marketing year for such commodity to January 31, 1939,

is less than 75 per centum of the parity price of such commodity for such period.\*

Sec. 741.5 *Division of payment.* The payment for a farm with respect to any commodity shall be divided among the landlords, tenants, and sharecroppers in the same proportion (as indicated by their acreage shares expressed in terms of either planted acreages or percentages) that such persons are determined by the county committee to be entitled to share as of the time of harvest in the proceeds (other than a fixed commodity payment) of such commodity grown on the farm for harvest in 1939. Such determination shall be made at such time as compliance with the provisions of the 1939 Price Adjustment Program with respect to such commodity is certified by the county committee; *Provided*, That if because of crop failure the acreage of the crop on the farm at the time such determination is made and any acreage harvested prior thereto is less than the acreage planted to such crop, and the county committee finds, in accordance with instructions issued by the Agricultural Adjustment Administration, that the use of the acreage on the farm at the time such determination is made and any acreage harvested prior thereto as a basis for the division of payment would result in a materially different division from that which would result from the use of the planted acreage, such payment shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines that such persons would have been entitled to share in the proceeds of such crop in the absence of such crop failure; *Provided, further*, That if the commodity is not grown on the farm in 1939 the payment shall be divided among the landlords, tenants, and sharecroppers in the proportion that the county committee determines that such persons would have been entitled to share in the proceeds of such crop if the entire acreage in such acreage allotment for such commodity had been planted for harvest in 1939; *Provided, further*, That upon the written agreement of all persons who are entitled to receive a landlord's share of the proceeds of such crop or who have an interest as a landlord in a tract of land (excluding land rented for cash or a fixed commodity payment) which has contributed to the acreage allotment established for the commodity on the farm, the landlords' share of the payment shall be divided on the basis of each landlord's respective share (as indicated by his acreage share expressed in terms of either planted acreages or percentages) in the acreage allotment which could have been established for the commodity on the land in which he has an interest.\*

Sec. 741.6 *General provisions relating to payments—(a) Payments made with-*

out regard to claims. Any payment or share of payment shall be made without regard to questions of title under State law, without deduction of assignments or claims for advances, and without regard to any claim or lien against any crop, or proceeds thereof, in favor of the owner or any other creditor.

(b) *Changes in leasing and cropping agreements, reduction in number of tenants, and other devices.* If on any farm in 1939 any change of the arrangements which existed on the farm in 1938 is made between the landlord and the tenants or sharecroppers and such change would increase the amount of payment that would otherwise be made to the landlord, such payment to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the change is not justified and disapproves such change. If on any farm the number of sharecroppers or share tenants in 1939 is less than the average number on the farm during the years 1936 to 1938, inclusive, and such reduction would increase the payments that would otherwise be made to the landlord, such payments to the landlord shall not be greater than the amount that would otherwise be made if the county committee certifies that the reduction is not justified and disapproves such reduction.

(c) *Individual farm compliance.* The eligibility of a person to receive a 1939 price adjustment payment with respect to a particular commodity with respect to a farm will not be affected by the farming operations carried out on any other farm in which he is interested as landlord, tenant, or sharecropper.\*

SEC. 741.7 *Deduction for association expenses.* There shall be deducted pro rata from the price adjustment payment for any farm all or such part as the Secretary may prescribe of the estimated administrative expenses incurred or to be incurred in connection with the 1939 Price Adjustment Program by the county association in the county in which the farm is located.\*

SEC. 741.8 *Application for payment.* Payment will be made only upon application submitted through the county office. The Secretary reserves the right (1) to withhold payment from any person who fails to file any form or furnish any information required with respect to any farm, and (2) to refuse to accept any application for payment if such application or any other form or information required is not submitted to the county office within the time fixed by the Regional Director. At least two weeks' notice to the public shall be given of the expiration of a time limit for filing prescribed forms, and such notice shall afford full and fair opportunity for eligible producers to file such forms.\*

SEC. 741.9 *Death, disappearance, or incompetency—(a) Death.* Where any person who is otherwise eligible to receive a payment dies before the payment is received, payment may be made, upon proper application therefor, with-

out regard to claims of creditors other than the United States, in accordance with the following order of precedence:

(1) To the administrator or executor of the deceased person's estate;

(2) If there is no administrator or executor and none is expected to be appointed, to the surviving spouse;

(3) If there is no surviving spouse, to the sons and daughters in equal shares. Children of a deceased son or daughter of a deceased person shall be entitled to their parent's share of the payment, share and share alike. If there are no surviving direct descendants of a deceased son or daughter of such deceased person, the share of the payment which otherwise would have been made to such son or daughter shall be divided equally among the sons and daughters of such deceased person who are alive or who have surviving children.

(4) If there is no surviving spouse and no direct descendant, payment shall be made to the father and mother of the deceased person in equal shares, or the whole thereof to the surviving father or mother;

(5) If there is no surviving spouse, no direct descendant, and no surviving parent, payment shall be made to the brothers and sisters of the deceased person in equal shares. Children of a deceased brother or sister shall be entitled to their parent's share of the payment, share and share alike. If there are no surviving direct descendants of the deceased brother or sister of such deceased person, the share of the payment which otherwise would have been made to such brother or sister shall be divided equally among the brothers and sisters of such deceased person who are alive or who have surviving children;

(6) If there is no surviving spouse, direct descendant, parent, or brothers or sisters or their descendants, the payment shall be made to the heirs-at-law.

Legally adopted children shall be entitled to share in any payment in the same manner and to the same extent as other children. If any person who is entitled to payment under the above order of precedence is a minor, payment of his share shall be made to his legal guardian, but if no legal guardian has been appointed payment shall be made to his natural guardian for his benefit, unless the minor's share of the payment exceeds \$500, in which event payment shall be made only to his legal guardian. Any payment which the deceased person could have received may be made jointly to the persons found to be entitled to such payment or shares thereof under this subsection, or, pursuant to instructions issued by the Agricultural Adjustment Administration, a separate check may be issued to each person entitled to share in such payment.

(b) *Disappearance.* In case any person entitled to payment hereunder disappears after making application but before receiving the payment, such pay-

ment may be made without regard to claims of creditors other than the United States to one of the following in the order mentioned:

(1) The conservator or liquidator of his estate, if one be duly appointed.

(2) The spouse.

(3) An adult son or daughter or grandchild for the benefit of his estate.

(4) The mother or father for the benefit of his estate.

(5) An adult brother or sister for the benefit of his estate.

A person shall be deemed to have disappeared if (1) he has been missing for a period of more than three months, (2) a diligent search has failed to reveal his whereabouts, and (3) such person has not communicated during such period with others persons who would be expected to have heard from him. Proof of such disappearance must be presented to the county committee in the form of an affidavit executed by the person making the application for payment, setting forth the above facts, and must be substantiated by an affidavit from a disinterested person who was well acquainted with the person who has disappeared.

(c) *Incompetency.* Where any person who is otherwise eligible to receive a payment is adjudged incompetent by a court of competent jurisdiction before the payment is received, payment may be made, upon proper application therefor, without regard to claims of creditors other than the United States to the guardian or committee legally appointed for such incompetent person. In case no guardian or committee has been appointed, payment, if not more than \$500, may be made without regard to claims of creditors other than the United States to one of the following in the order mentioned for the benefit of the incompetent person:

(1) The spouse.

(2) An adult son, daughter, or grandchild.

(3) The mother or father.

(4) An adult brother or sister.

(5) Such person as may be authorized under State law to receive payment for him (see standard procedure prescribed for the respective region).

In case payment is more than \$500, payment may be made only to such person as may be authorized under State law to receive payment for the incompetent producer.\*

SEC. 741.10 *Appeals.* Any person may, within 15 days after notice thereof is forwarded to or available to him, request the county committee in writing to reconsider its recommendation or determination with respect to any of the following matters affecting any farm in which he has an interest: (a) eligibility to file an application for payment; (b) the division of payment; or (c) any other matter affecting the right to or the amount of his payment with respect

to the farm. The county committee shall notify such person of its decision in writing within 15 days after receipt of such written request for reconsideration. If such person is dissatisfied with the decision of the county committee he may, within 15 days after such decision is forwarded to or made available to him, appeal in writing to the State committee. The State committee shall notify such person of its decision in writing within 30 days after the receipt of the appeal. If such person is dissatisfied with the decision of the State committee, he may, within 15 days after such decision is forwarded to or made available to him, request the regional director to review the decision of the State committee.

The procedure respecting appeals under this section shall be the same as under the appeals provisions of Part 701 (the 1939 Agricultural Conservation Program) applicable in the region in which the appeal arises.\*

SEC. 741.11 *Forms and instructions.* The Agricultural Adjustment Administration shall prescribe such forms and issue such instructions as may be necessary to carry out the 1939 Price Adjustment Program in conformity with these regulations.\*

SEC. 741.12 *Signatures and authorizations.* The provisions of ACP-16, "Instructions on Signatures and Authorizations in Connection with the Execution of Applications for Payment or Related Papers under the Agricultural Conservation Program", are hereby made a part of these regulations.\*

SEC. 741.13 *Performance of duties of State and county committees in Hawaii and Puerto Rico.* In the event State and county agricultural conservation committees have not been established in the Territory of Hawaii or Puerto Rico, the Officer in Charge, Agricultural Adjustment Administration, Territory of Hawaii, or Puerto Rico, as the case may be, shall perform the duties of both the State and county committee as set forth in these regulations.\*

[F. R. Doc. 39-190; Filed, January 14, 1939; 11:58 a. m.]

## TITLE 16—COMMERCIAL PRACTICES

### FEDERAL TRADE COMMISSION

[Docket No. 3609]

IN THE MATTER OF ISABELLA LABORATORIES, ET AL.

SEC. 3.6 (1) *Advertising falsely or misleadingly—Indorsements and testimonials:* SEC. 3.18 *Claiming indorsements or testimonials falsely:* SEC. 3.6 (y) *Advertising falsely or misleadingly—Safety.* Disseminating, etc., advertisements by means of the U. S. mails or in commerce or by any means, for the purpose of inducing, etc., directly or indirectly, the purchase of the drug known as "281", whether sold under the same name or under any other trade name,

which advertisements represent that said preparation is prescribed by practicing physicians as an aid in reducing weight and that no ill effects are experienced from its use, and which advertisements fail to state that use thereof under conditions prescribed in said advertisements, or under such conditions as are customary and usual, may be injurious to the health of the user thereof by causing loss or serious impairment of eyesight, and in other ways injuring and impairing the functions of the human body, prohibited. (Sec. 5b, 52 Stat. 112; 15 U. S. C., Supp. IV, sec. 45b) [Cease and desist order, Isabella Laboratories, et al., Docket 3609, January 7, 1939]

### United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 7th day of January, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF HARRY GOROV, AN INDIVIDUAL, TRADING AS ISABELLA LABORATORIES; HARTMAN WHOLESALE DRUG CO., INC.; A CORPORATION; HARTMAN WABASH DRUG CO., A CORPORATION; HARTMAN DRUG CO., A CORPORATION; HARTMAN NORTH SHORE DRUG CO., A CORPORATION; HARTMAN PHARMACY, INC., A CORPORATION; HARTMAN MEDINAH DRUG CO., A CORPORATION; HARTMAN LA SALLE DRUG CO., A CORPORATION; HARTMAN STONY ISLAND DRUG CO., A CORPORATION; HARTMAN SHERIDAN DRUG CO., A CORPORATION

### ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers of respondents in which answers respondents admit all the material allegations of fact set forth in said complaint and state that they waive all intervening procedure and further hearing as to said facts and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That the respondent Harry Gorov, trading as Isabella Laboratories, or under any other trade name, and respondents Hartman Wholesale Drug Co., Inc., Hartman Wabash Drug Co., Hartman Drug Co., Hartman North Shore Drug Co., Hartman Pharmacy, Inc., Hartman Medinah Drug Co., Hartman LaSalle Drug Co., Hartman Stony Island Drug Co. and Hartman Sheridan Drug Co., their officers and their respective representatives, agents and employees do forthwith cease and desist from:

Disseminating or causing to be disseminated any advertisement by means of the United States mails or in commerce by any means for the purpose of inducing or which is likely to induce

directly or indirectly the purchase of the drug known as "281" whether sold under the same name or under any other trade name, or disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing or which is likely to induce directly or indirectly the purchase in commerce of said preparation "281" which advertisements represent that the preparation "281" is prescribed by practicing physicians as an aid in reducing weight and that no ill effects are experienced from its use, and which advertisements fail to state that the use of this preparation under the conditions prescribed in said advertisements or under such conditions as are customary and usual may be injurious to the health of the user thereof by causing loss or serious impairment of eyesight and in other ways injuring and impairing the functions of the human body.

It is further ordered, That respondents shall within ten (10) days after service upon them of this order file with the Commission an interim report in writing stating whether they intend to comply with this order and if so, setting forth in detail the manner and form in which they intend to comply; and that within sixty (60) days after service upon them of this order said respondents shall file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 39-186; Filed, January 13, 1939; 3:49 p. m.]

## Notices

### DEPARTMENT OF LABOR.

#### Wage and Hour Division.

NOTICE OF CHANGE IN DATE OF HEARING ON APPLICATIONS OF RAW FUR AND WOOL ASSOCIATION OF ST. LOUIS, MISSOURI, INC. AND SUNDRY OTHER PARTIES FOR PARTIAL EXEMPTION OF THE RAW FUR RECEIVING INDUSTRY AS A SEASONAL INDUSTRY

Whereas, on the 10th day of January, 1939, Notice of Hearing on the applications of Raw Fur and Wool Association of St. Louis, Missouri, Inc. and sundry other parties for partial exemption of the raw fur receiving industry as a seasonal industry pursuant to Section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of regulations issued thereunder, was duly issued by Elmer F. Andrews, Administrator, Wage and Hour Division, United States Department of Labor, to commence on January 19, 1939, at 10 o'clock a. m. at the Raleigh Hotel, Twelfth Street and Pennsylvania Ave-

\* 4 F.R. 187 D1.

nue, Washington, D. C., before a presiding officer to be designated, on the following question:

Whether or not the raw fur receiving industry as defined herein or any branch thereof is of a seasonal nature within the meaning of Section 7 (b) (3) of the Fair Labor Standards Act of 1938 and Part 526 of the regulations issued thereunder.<sup>2</sup>

As used in this notice the term "raw fur receiving industry" means the receiving, unpacking, grading, sorting, appraising, scraping, stretching and drying of raw furs.

Now take notice that said Hearing has been postponed until further notice.

Signed at Washington, D. C., this 14th day of January 1939.

ELMER F. ANDREWS,  
Administrator.

[F. R. Doc. 39-192; Filed, January 16, 1939; 11:21 a. m.]

IN THE MATTER OF APPLICATIONS OF THE WESTERN UNION TELEGRAPH COMPANY; POSTAL TELEGRAPH LANDLINE SYSTEM; ALL AMERICA CABLES AND RADIO, INC., FOR PERMISSION TO EMPLOY MESSENGERS AT WAGES LOWER THAN THE MINIMUM WAGE APPLICABLE UNDER SECTION 6 OF THE FAIR LABOR STANDARDS ACT OF 1938

NOTICE OF OPINION AND DECISION OF THE ADMINISTRATOR ON REVIEW OF THE REPORT AND FINDINGS OF THE PRESIDING OFFICER

Pursuant to the Fair Labor Standards Act of 1938 and to Part 523<sup>3</sup> of Regulations of the Department of Labor, Title 29, Chapter V, Wage and Hour Division, Notice is hereby given that the Administrator, after appropriate notice<sup>4</sup> and hearing and argument by counsel, on review of the record and the report and findings of Dr. William M. Leiserson, Presiding Officer in the above-entitled matter, did on January 14, 1939, render an opinion and decision denying the relief prayed for in the petitions for review respectively filed by the Western Union Telegraph Company and Postal Telegraph-Cable Corporation and other com-

panies constituting the Postal Telegraph Landline System.

Copies of said opinion and decision may be examined in Room 5144, Department of Labor, Washington, D. C.

Signed at Washington, D. C., this sixteenth day of January 1939.

ELMER F. ANDREWS,  
Administrator.

[F. R. Doc. 39-193; Filed, January 16, 1939; 12:03 p. m.]

#### FEDERAL POWER COMMISSION.

[Docket No. DI-145]

IN THE MATTER OF COPPER DISTRICT POWER COMPANY

ORDER POSTPONING HEARING

JANUARY 13, 1939.

Commissioners: Clyde S. Seavey, Acting Chairman; Claude L. Draper, Basil Manly, John W. Scott.

It appearing to the Commission that:

The Attorney General for the State of Michigan, on behalf of the State of Michigan and the Conservation Commission of said State, interveners, has requested postponement of the public hearing in the above cause now assigned to be held on January 19, 1939, in accordance with the order of the Commission adopted on January 3, 1939;<sup>1</sup> and, for good reason shown;

The Commission orders that:

The public hearing in the above cause now set for January 19, 1939, be and the same is hereby postponed to February 2, 1939, at the same time and place.

By the Commission.

[SEAL]

LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 39-188; Filed, January 14, 1939; 10:42 a. m.]

#### SECURITIES AND EXCHANGE COMMISSION.

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its

<sup>1</sup> 4 F. R. 56 DL.

office in the City of Washington, D. C., on the 13th day of January 1939.

IN THE MATTER OF INDIANAPOLIS POWER & LIGHT CO. FIRST MTG. BONDS, 3¾% SERIES, DUE AUGUST 1, 1963; NORTH BOSTON LIGHTING PROPERTIES SECURED NOTES, 3½% SERIES, DUE OCTOBER 1, 1947; THE OHIO PUBLIC SERVICE CO. FIRST MTG. BONDS, 4% SERIES, DUE AUGUST 1, 1962; PENNSYLVANIA ELECTRIC CO. FIRST & REFUNDING MTG. 5% BONDS, SERIES "H", DUE APRIL 15, 1962

ORDER SETTING HEARING ON APPLICATIONS TO EXTEND UNLISTED TRADING PRIVILEGES

The New York Curb Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, as amended, and Rule X-12F-1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the above-mentioned securities; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Friday, February 17, 1939, in Room 1102-A, Securities and Exchange Commission Building, 1773 Pennsylvania Avenue NW., Washington, D. C., and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 39-191; Filed, January 16, 1939; 11:08 a. m.]

<sup>2</sup> 3 F. R. 3127 DL.

<sup>3</sup> 3 F. R. 2484 DL.

<sup>4</sup> 3 F. R. 2883 DL.

